THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12798 OF 2006

03.07.2006

Between:

Karri Babu Rao, S/o.late Chinna
And others

… Petitioners

AND

The Joint Collector & Settlement Officer,
Visakhapatnam, Visakhapatnam District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioners filed the present writ petition assailing the judgment dated 11.8.2004 in Tribunal Appeal No.5 of 2000, passed by the Court of the District Judge-cum-Appellate Tribunal under Estates Abolition Act-cum-District Court, Visakhapatnam.

The petitioners filed an application under Section 56(1) of A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (the Act, for brevity) claiming the land admeasuring Acs.6.19 in survey No.188/1, 2 and 3 situated at Madugula Village in Visakhapatnam District. Madugula was Zameendari estate taken over by the Government under the Act on 18.3.1953 and the settlement rates were introduced with effect from 01.7.1959. The application of the petitioners was dismissed by the Settlement Officer, the first respondent herein, on 22.11.1985. The petitioners preferred appeal before the Appellate Tribunal under Section 56(2) of the Act. The learned District Judge remanded the matter to the Settlement Officer. Again the original Authority dismissed the claim of the petitioners on 06.5.2000 against which they preferred appeal being Tribunal Appeal No.5 of 2000. By order dated 11.8.2004 the same was dismissed. The petitioners alleged that in 1908 Zameendar of Madugula granted the land to Bonu Atchamma and that the land devolved on the petitioners. They also alleged that they were in possession of the land when the estate was taken over by the Government. The third respondent proclaimed that he is entitled to patta and tried to dispossess the petitioners. The original Authority; the first respondent herein –considered Exs.P.1 to P.25 produced by the petitioners. Exs.P.5 and P.6, tax receipts in favour of Karri Ramulu, were rejected as they were not certified copies and they did not bear any seal of the issuing Authority. Further, the first respondent found that the land in question was classified as Assessed Waste Dry (AWD), which was assigned in favour of the petitioners, but regular D-Form pattas were not granted to them. The land was shown in the revenue records as

Gayalu (Government poramboke land) since 1970 and, therefore, they are not entitled to claim patta under Section 56(1) of the Act, as it was not a Royithi land.

Before the learned District Judge, the petitioners contended that the first respondent did not afford adequate opportunity of being heard and that the first respondent committed error in appreciating Exs.P.1 to P.25 filed by the petitioners. The appellate authority again considered the evidence and dismissed the appeal.

Learned Counsel for the petitioners contends that there were unimpeachable evidence before the first respondent as well as the District Court to show that the petitioners' ancestors were cultivating the land and, therefore, they are entitled to ryotwari patta under Section 56(1) of the Act. Learned Counsel for the petitioners finds fault with the conclusion of the lower Authorities that the land is not Royithi land and it is poramboke land. He, however, does not dispute that if the land is registered as Government poramboke land (Gayalu), the patta cannot be granted under the provisions of the Act.

The Court has perused the orders passed by the first respondent as well as the learned District Judge. Though the learned District Judge dismissed the appeal on 11.8.2004, the petitioners approached this Court after lapse of two years. They did not explain the delay and laches. Be that as it is, by no stretch of imagination, it can be said that the Settlement Officer did not consider the evidence produced by the petitioners. As noticed by the appellate Authority, the original Authority elaborately discussed all the twenty five (25) documents produced by the petitioners and drew correct conclusions and inferences. The petitioners did not even file any evidence to show that there was classification of land from ASD to ryotwari land. Under provisional pattas only, the land was assigned and, therefore, the conclusion that it is not a royithi land is justified. When the land in question is Government poramboke land, ryotwari patta cannot be granted under Section 11 of the Act. Further, as noticed by the learned District Judge an application under Section 56(1) of the Act for grant of patta is misconceived. This Court does not find any reason to interfere with the well considered order of the lower appellate Tribunal.

The writ petition is, accordingly, dismissed. No costs.

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(**V.V.S.RAO, J**)

July 03, 2006
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